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101ST CONGRESS
2d Session

SENATE

REPORT
101-395

AUTHORIZING THE SECRETARY OF THE INTERIOR TO REINSTATE OIL AND GAS LEASE LA 033164

JULY 26 (legislative day, JULY, 10), 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1805]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1805) to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That subsection 31(g) of the Mineral Leasing Act, as amended (30 U.S.C. 188(g)), is amended by adding the following:

"(3) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of this Act shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section, applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

"(4) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of the Act shall, upon renewal on or after enactment of this paragraph, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.".

SEC. 2. (a) Notwithstanding any other provision of law, United States oil and gas leases CALA 033164, CAS 019746C, and CAS 021009B shall be eligible for reinstatement under the terms and conditions set forth in subsections 31 (c), (d) and (e) of the Mineral Leasing Act, as amended (30 U.S.C. 188 (c), (d) and (e)) applicable to leases issued under section 17(c) of the Mineral Leasing Act (30 U.S.C. 226(c)) except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(b) Within thirty days after the enactment of this Act, the Secretary of the Interior shall give written notice by registered mail to the last lessees of record for the leases listed in subsection (a) of this section that said lessees may petition for rein-

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statement in accordance with the procedures and conditions in subsections 31 (c), (d), and (e) of the Mineral Leasing Act, as amended (30 U.S.C. 188 (c), (d), and (e)). The lessee shall have sixty days from the date of the Secretary's notice to file such petition. If the Secretary determines that the leases listed in subsection (a) of this section qualify for reinstatement pursuant to subsection 31(d) (30 U.S.C. 118(d)), in all respects except for compliance with the deadlines imposed by that provision, the Secretary shall reinstate such leases.

Purpose of the Measure

S. 1805, as reported by the Committee, amends section 31 of the Mineral Leasing Act to provide for reinstatement of oil and gas leases issued pursuant to section 14 of the Act. the legislation also makes eligible for reinstatement three leases that have been terminated, and provides a 20-year production requirement for all section 14 leases upon renewal.

Background and Need

Section 31(d) of the Mineral Leasing Act (30 U.S.C. 188(d)) (MLA) provides for reinstatement of an oil and gas lease that is terminated for failure to pay rental on time, provided certain conditions are met. However, the reinstatement provision applies only to leases issued pursuant to section 17 of the MLA (30 U.S.C. 226). Leases issued pursuant to section 14 (30 U.S.C. 223) are not eligible for reinstatement under this provision.

Prior to 1935, a person holding an oil and gas prospecting permit was entitled to a lease pursuant to section 14 of the Mineral Leasing Act provided certain conditions were met. Such leases were issued for 20-year terms with a preferential right to renewal for successive 10-year terms under such reasonable terms and conditions as prescribed by the Secretary, unless otherwise provided by law at the time of the expiration of such periods. In 1935, an amendment to the Mineral Leasing Act eliminated the granting of prospecting permits, but grandfathered current permit holders, allowing them to obtain leases pursuant to section 14.

Currently, there are 570 section 14 leases. Of these, 105 are now in rental status, subject to termination for failure to pay rent. Recently, three lessees with section 14 leases so terminated have attempted to have the leases reinstated pursuant to section 31 of the Mineral Leasing Act. However, it is the Department of the Interior's position that section 31 applies only to leases issued pursuant to section 17, and has not reinstated the leases. The lessees currently have actions pending before the Interior Board of Land Appeals.

Legislative History

S. 1805 was introduced by Senator Inouye and cosponsored by Senators Cranston and Wilson on October 27, 1989. The Subcommittee on Mineral Resources Development and Production held a hearing on S. 1805 on March 9, 1990.

Committee Recommendations and Tabulation of Vote

The Senate Committee on Energy and Natural Resources, in an open business session on Wednesday, July 18, 1990, by unanimous

vote of a quorum present, recommends that the Senate pass S. 1805, if amended as described herein.

The roll call vote on reporting the measure was 18 yeas, 0 nays as follows:

Yeas	Nays
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth	
Mr. Conrad	
Mr. Heflin	
Mr. Rockefeller	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici	
Mr. Wallop*	
Mr. Murkowski	
Mr. Nickles	
Mr. Burns	
Mr. Garn*	
Mr. McConnell	

*Indicates proxy vote.

Section-by-Section Analysis

Section 1. Amends subsection 31(g) of the Mineral Leasing Act to provide that, notwithstanding any other provision of law, any lease issued pursuant to section 14 of the Act shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of section 31, applicable to leases issued under subsection 17(c) except, that, upon reinstatement, such lease shall continue for 20 years and so long thereafter as oil or gas is produced in paying quantities. The section also provides that any lease issued pursuant to section 14 shall, upon renewal, on or after enactment, continue for 20 years and so long thereafter as oil or gas is produced in paying quantities.

Subsection 2(a). Provides that notwithstanding any other provision of law, United States oil and gas leases CALA 033164, CAS 019746C, and CAS 021009B shall be eligible for reinstatement under the terms and conditions set forth in subsections 31(c), (d), and (e) of the Mineral Leasing Act, applicable to leases issued under section 17(c) of such Act, except that, upon reinstatement, such leases shall continue for 20 years and so long thereafter as oil or gas is produced in paying quantities.

Subsection 2(b). Is self-explanatory.

Cost and Regulatory Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 1990.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1805, a bill to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164, as ordered reported by the Senate Committee on Energy and Natural Resources on July 18, 1990. We estimate that enactment of S. 1805 would have no significant effect on the federal budget or on the budgets of state and local governments.

S. 1805 would allow three oil and gas leases, covering about 100 acres in California, to be reinstated. These leases were terminated for failure to pay annual rentals on time. The bill also would allow any oil and gas leases meeting specified criteria to be eligible for the same reinstatement procedures. When reinstated, all leases affected by this bill would be subject to a 20-year diligent development requirement. The lease payments on the three leases specifically addressed by the bill are negligible, and total potential receipts from the broad reinstatement provisions are less than $100,000 a year.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226–2860.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in implementing S. 1805. The bill is not a regulatory measure in the sense of imposing government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1805, as amended.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth executive agency recommendation relating to S. 1805 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 21, 1990.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1805, a bill "To authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164."

We oppose enactment of S. 1805, unless it is amended as we suggest herein.

This legislation is designed to provide private relief to an oil and gas lessee unable to obtain reinstatement of its oil and gas lease. The lessee failed to pay its annual rental on or before the anniversary date of the lease as required by law. Under section 31(b) of the Mineral Leasing Act (MLA), 30 U.S.C. 188(c), the lease terminated.

Section 31(d) of the MLA allows reinstatement of leases that terminated due to inadvertence. However, the paragraph explicitly refers to leases "issued pursuant to section 17(b) or (c) of this Act." The terminated lease was issued in 1923 under the noncompetitive provisions in section 14 of the original MLA. Our Solicitor has determined that specific reference to section 17 foreclosed reinstatement of such leases issued under section 14.

Lease LA 033164 is not the only section 14 lease terminated for failure to pay annual rental. Leases SAC 019746C and SAC 021009B are on appeal to the Interior Board of Land Appeals (IBLA) along with the subject lease. (As a matter of information, the serial numbers of these leases have been changed to CALA 033164, CAS 019746C, and CAS 021009B, respectively.) Further, thre are 16 other section 14 leases which are subject to the payment of rental or to automatic termination by operation of law for failure to pay annual rental. Sixty two other section 14 leases are currently in production and are therefore paying a royalty but which could revert to a rental situation subject to termination for failure to pay.

Because of this number of section 14 leases which could be subject to termination, we recommend the provision allowing for reinstatement of section 17 leases be extended to apply to these leases as well. We do not believe it is equitable or appropriate to reinstate only one specific lease without consideration for all other section 14 leases that are on appeal or which could be subject to this penalty. We therefore oppose S. 1805 unless it is amended to include all section 14 leases.

On the subject of section 14 leases generally, we believe such leases should have some time limit as to how long they can be held without production of oil or gas. Absent production within 20 years, there seems to be no reason why they should not be terminated. (We note that the three referenced leases currently before the IBLA are all over 50 years old and have never produced oil or gas.) We therefore suggest the subject bill provide for such a limit.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVE O'NEAL, *Assistant Secretary.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of RULE XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1805, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in Roman):

MINERAL LEASING ACT

(41 Stat. 450)

* * * * * * *

SEC. 31 * * *

(g) TREATMENT OF LEASES.—

(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 226(b) or (c) of this title.

(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 226(c) of this title.

(3) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of this Act shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section, applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(4) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of the Act shall, upon renewal on or after enactment of this paragraph, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

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